

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015050532 (Primary)
v.	
SOUTH WHITTIER ELEMENTARY SCHOOL DIST,	
SOUTH WHITTIER ELEMENTARY SCHOOL DIST,	OAH Case No. 2015040452
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On April 10, 2015, District filed a Request for Due Process Hearing naming Student (District's case). District's case alleged a single, discrete issue of whether the District's January 16, 2015 occupational therapy assessment was appropriate, such that District need not fund an independent educational evaluation at public expense. On April 17, 2015, the parties stipulated to continue District's case to the current dates, with a prehearing conference on May 15, 2015 and a hearing on May 20 – 21, 2015.

On May 15, 2015, after the prehearing conference in District's case, Student filed a Request for Due Process Hearing, naming South Whittier Elementary School District (Student's case), along with a Motion to Consolidate District's case with Student's case. Student requested to continue the due process hearing dates set in District's case to the dates set in Student's case. Student's complaint alleges a denial of a free appropriate public education for the 2014 – 2015 school year by District's failure to provide appropriate occupational therapy services, extended school year services and placement. District indicated during the prehearing conference it would not oppose a motion to consolidate.

*Consolidation*

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or

preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, Student contends that consolidation is appropriate because both complaints involve similar facts and a similar issue regarding occupational therapy. Consolidation will further the interests of judicial economy to avoid duplication of testimony and evidence, and avoid potentially inconsistent results. Accordingly, consolidation is granted. .

#### *Continuance*

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

Student's request to continue the consolidated matters consistent with the timelines in Student's case is granted. The consolidated matter is continued and the mediation, prehearing conference, and due process hearing in the consolidated matter shall be set in accordance with the original scheduling order issued in Student's Case.

#### ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2015040452 are vacated.
3. Student's Motion to Continue is granted. The consolidated matters are continued and shall be set for hearing in accordance with the scheduling order issued in OAH Case Number 2015050532.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2015050532.

DATE: May 15, 2015

/s/

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COLE DALTON  
Administrative Law Judge  
Office of Administrative Hearings